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AUG 1 2002

OFFICE OF PETITIONS

In re Application of :
John M. Callahan :
Application No. 10/014,928 : ON PETITION
Filed: December 11, 2001 :
Attorney Docket No. NAN009.DIV2 :

This is a decision on the petition filed May 29, 2002, to accord the above-identified application a filing date of December 11, 2001. The petition is properly treated under 37 CFR 1.53(e).

The application was filed on December 11, 2001. However, on March 18, 2002, Initial Patent Examination Division mailed a Notice informing petitioner that the specification was not present and that a filing date had not been accorded and the filing date would be the date of receipt of the complete specification as prescribed by 35 U.S.C. § 112.

In response, the present petition was filed alleging that twenty-nine (29) pages of Specification (including claims and abstract) were filed on December 11, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "twenty-nine (29) pages of Specification, including claims and abstract" on December 11, 2001.¹

Upon review of the record, twenty-nine (29) pages of Specification, including claims and abstract, deposited on December 11, 2001 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 11, 2001, included twenty-nine (29) pages of Specification, including claims and abstract, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including twenty-nine (29) pages of Specification, including claims and abstract, was complete on filing and entitled to a filing date of December 11, 2001.

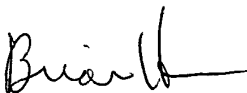
¹Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the postcard against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

In view of the above, the petition is **granted**.

The copy of the twenty-nine (29) pages of Specification, including claims and abstract, submitted with the petition will be used for examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of December 11, 2001, and for an indication that twenty-nine (29) pages of Specification, including claims and abstract were present on filing.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.



Brian Hearn
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